

EXHIBIT D

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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CHASOM BROWN; MARIA NGUYEN; WILLIAM
BYATT; JEREMY DAVIS; and CHRISTOPHER
CASTILLO, individually and on behalf
of all other similarly situated,

Plaintiffs,

No. 5:20-cv-03664-LHK

-against-

GOOGLE LLC,

Defendant.

- - - - - x

Zoom video conference deposition of
RORY McCLELLAND, taken pursuant to
notice, was held remotely, commencing
February 18, 2022, 5:30 a.m. Eastern
Standard Time, before Leslie Fagin, a
Stenographic Court Reporter and Notary
Public in the State of New York.

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A P P E A R A N C E S:

(All Parties Present Via Zoom.)

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Magna Legal Services

1 R. McClelland

2 A. The same argument that it requires
3 a high level of understanding of how the web
4 works in order to understand the level of
5 protection afforded and the average user does
6 not have that level of understanding.

7 Q. Does Incognito mode obscure
8 location?

9 A. No, it does not.

10 Q. Does Incognito mode provide
11 anonymity?

12 MS. CRAWFORD: Objection, vague and
13 ambiguous as to anonymity.

14 You can answer.

15 A. To a degree, it does, it provides
16 isolation of browsing activity and allows any
17 user at any time to present to a web server
18 with an empty clean slate as a brand-new
19 user.

20 Q. If you go to the next page ending
21 in 404, where it says, if you look to the
22 left of the bottom, the first point, it says,
23 Majority of user, it's a typo, expect no
24 session-based tracking.

25 Do you see that?

1 R. McClelland

2 A. I do, yes.

3 Q. Can you elaborate more on this user
4 expectation?

5 MS. CRAWFORD: Objection,
6 foundation.

7 A. My understanding is that users
8 expect Incognito mode or private browsing
9 modes generally to present all in session ad
10 tracking when, in reality, the tracking is
11 limited to that single Incognito session, but
12 within the session, the tracking does occur.

13 Q. As far as you know, has Google ever
14 considered stopping session-based tracking?

15 MS. CRAWFORD: Objection.

16 A. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. Were you involved in that proposal?

22 A. I was, yes.

23 Q. What happened with that proposal?

24 A. It was a contentious proposal.

25 There were two clear groups, two different

1 R. McClelland

2 points of view, opinions. There was the view

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Those two proposals were taken

13 forward through an escalation and,

14 ultimately, [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. Which view did you have, was it the
19 first one or the second one, about the being
20 a good citizen?

21 A. My preference was for the first one
22 as a product manager, your role is to
23 represent the user and the user problem and
24 to argue for them.

25 That said, I respected both points

1 R. McClelland

2 of view. It wasn't a clear right or wrong,
3 just two different ways of moving forward.

4 Q. Who made the ultimate decision to
5 [REDACTED]?

6 MS. CRAWFORD: Objection,
7 foundation.

8 You can answer.

9 A. It went to an escalation meeting.
10 I think it was a woman called Parisa Tabriz,
11 I struggle to remember her name, but her
12 first name was Parisa. She was a director of
13 engineering at the time and her counterpart
14 from the products side, Margret Schmidt.

15 Q. Do you remember the name of this
16 proposal, if it had one?

17 A. No, I'm afraid. If you were to
18 give it to me, I might be able to recognize
19 it rather than recall it.

20 Q. Please take a look at the page
21 ending in 409.

22 Do you see at the top, it says,
23 What are any risks or potential moments when
24 trust might be lost with participants while
25 in private mode?

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1 CERTIFICATE

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3
4 I HEREBY CERTIFY that the foregoing proceedings
5 were duly sworn by me and that the proceedings are a
6 true record.

7 
8
9 Leslie Fagin,
10 Registered Professional Reporter
11 Dated:
12

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